

# STATE OF VERMONT BOARD OF MEDICAL PRACTICE

In re: Gene W. Wu, M.D.

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Docket No. MPS 65-0603

## CESSATION OF PRACTICE AGREEMENT II

NOW COME Gene W. Wu, M.D., (Respondent), and the State of Vermont, by and through Attorney General William H. Sorrell and the undersigned Assistant Attorney General, James S. Arisman, and agree and stipulate as follows:

1. Gene W. Wu, M.D., holds Vermont Medical License Number 042-0009913, issued by the Board of Medical Practice on August 24, 1999. Respondent, an anesthesiologist, holds privileges at the Copley Hospital of Morrisville, Vermont.

2. Jurisdiction vests with the Vermont Board of Medical Practice (Board) by virtue of 26 V.S.A. § 1353 and other provisions of Chapter 23 of the Vermont statutes.

### I. Background.

3. On or about December 6, 2004, Respondent voluntarily took a medical leave of absence from his practice responsibilities at Copley Hospital. Copley Hospital subsequently filed notice with the Board of Medical Practice regarding Respondent's leave and related matters.

4. Respondent's medical condition subsequently was independently assessed by practitioners not otherwise associated with Copley Hospital. The results of such assessment have not yet been reviewed or received by the Board of Medical Practice. Nor has the specific content of the hospital's notice to the Board yet been fully investigated by the Board.

5. Undersigned Assistant Attorney General requested that Respondent refrain from the practice of medicine until such time as the Board of Medical Practice had reviewed the facts and circumstances involved and had taken further action in this matter, as provided by his January 5, 2004 practice agreement with the Board. Respondent, through counsel, immediately agreed to "cease and desist from all practice of medicine [including prescribing] until authorized by the Board that he may return to practice."

6. Respondent affirms his continuing willingness to assist and cooperate with the Board of Medical Practice in the exercise of its statutory responsibilities. In this regard, Respondent has determined that he shall voluntarily enter into this agreement with the Vermont Board of Medical Practice, hereby formalizing his commitment as to his practice activities, as described in Paragraph 5, immediately above. Thus, he voluntarily shall refrain from the practice of medicine until such time as he is authorized by the Board to return to practice, subject to such reasonable terms and conditions, as the Board may deem appropriate at that time.

7. This agreement sets forth in writing the terms for temporary cessation of medical practice by Respondent. Respondent acknowledges that he has been offered the opportunity to obtain an attorney and to receive legal advice and counsel regarding this matter. Respondent warrants here that he is satisfied with the advice, counsel, and representation he has received to date in the instant matter. He agrees and fully understands that by executing this document he is waiving the necessity of any further proceedings before the Board of Medical Practice, at this time, so as achieve this interim agreement. 3 V.S.A. § 809(d). Thus, in sum, Respondent voluntarily and knowingly agrees to the terms and conditions herein.

8. Respondent understands that subsequent to the pendency of this agreement he may be required to enter into other terms and conditions, in addition to or in substitution for and those already required by prior agreement with the Board. Any such new or additional terms and conditions shall be set out in a further Board order.

9. The terms and conditions of any prior agreement that are currently operative and not in conflict with this agreement shall remain in force, pending further order of the Board. The instant agreement shall prevail over any term and condition of a prior agreement that is deemed by the Board to be in conflict with any provision herein and or deemed by the Board to be less protective of patients and the public.

10. Thus, in sum, the parties now enter into the instant Cessation of Practice Agreement and Consent Order II, which is intended to serve as a means of providing for care of Respondent's medical needs and ensuring the safety of the public.

## **II. Terms as to Cessation of Practice.**

11. It is agreed by the parties that Respondent has indicated that he ceased the practice of medicine on or about December 6, 2004. Respondent agrees that he shall desist hereafter, from any and all practice of medicine, including prescribing, in the State of Vermont or elsewhere until: (a) the Board in its sole discretion deems it safe for him to return to the practice of medicine; and (b) he and the Board fully resolve any new or substitute conditions and requirements, if any, that shall govern his future practice activities, his care and treatment, and monitoring thereof by the Board; or (c) further order of the Board. Respondent agrees that if necessary he shall undergo such assessment, testing, or evaluation as may be required by the Board prior to or following his return to the practice of medicine.

12. Respondent affirms that he shall execute any and all waivers that may be required so as to permit the Board, its staff, or agents to order and/or review any and all assessments, evaluations, tests, diagnoses, records, or reports regarding his care and treatment and his medical condition. Respondent agrees that as required he shall sign such general authorizations as may be required for the release of his medical records and other information to the Board. Respondent agrees not to terminate such authorization and to execute such further authorizations for the release of his medical records and information as may be reasonably required by the Board. Consistent with this authorization Respondent also agrees that the Board or its agents may communicate orally to obtain information from practitioners involved in the care and treatment of Respondent.

13. Respondent agrees to pursue in good faith and without interruption such care and treatment of his medical condition as may be recommended to him by treating professionals. Respondent shall bear all costs of care and treatment, assessment, tests, and/or evaluation, as well as monitoring and reporting but shall be permitted to share such costs with third parties, subject to Board review and approval.

14. The parties agree that Respondent shall retain all rights to due process regarding the status of his medical license, his medical condition, and his ability to practice medicine safely.

15. The parties agree that Respondent may apply for modification or relief from the terms and conditions of this agreement, so as to permit him to return to the practice of medicine, when he, his treating practitioners, and the Board agree that he is able to resume the practice of medicine in accord with standards recognized by the Vermont Board of

Medical Practice and subject to such terms and conditions as the Board may deem necessary for protection of patients and the public. Respondent also understands and agrees that his compliance with the terms and conditions herein and with the recommendations of those providing care and treatment to him may be considered in any subsequent proceeding before the Board regarding his license.

16. Respondent agrees that he has read and carefully considered all terms and conditions herein as to the instant agreement, and he agrees that these may be adopted as an enforceable order of the Board, pursuant to 3 V.S.A. § 809(d) and 26 V.S.A. § 1353(4). Respondent agrees to accept and be bound by these until such time as he may be expressly relieved of these terms and conditions or they are modified, in writing, by the Board.

17. The parties agree that this interim Cessation of Practice Agreement II shall be a public document, shall be made part of Respondent's licensing file, and may be reported to other licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.

18. This Cessation of Practice Agreement II is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this agreement, the entire agreement shall be considered void. However, if this agreement is deemed acceptable, the parties request that the Board enter an order adopting the terms and conditions set forth herein. Respondent agrees that the Board of Medical Practice shall retain jurisdiction in this matter and may enforce as necessary the terms and conditions herein, pursuant to 26 V.S.A. §1354(25) or other statutory authority.

Dated at Montpelier, Vermont, this 23<sup>rd</sup> day of December 2004.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

by: [Signature]  
JAMES S. ARISMAN  
Assistant Attorney General

Dated at MONTPELIER, Vermont, this 21<sup>st</sup> day of December 2004.

[Signature]  
GENE W. WU, M.D.  
Respondent

Dated at Montpelier, Vermont, this 21<sup>st</sup> day of December 2004.

[Signature]  
PETER B. JOSLIN, ESQ.  
Counsel for Respondent

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FOREGOING, AS TO GENE W. WU, M.D.,  
APPROVED AND ORDERED  
VERMONT BOARD OF MEDICAL PRACTICE

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DATED: 12/21/05

ENTERED AND EFFECTIVE: January 5, 2005